

JUDGE BATTIS
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CV 2880

Civil Action No.

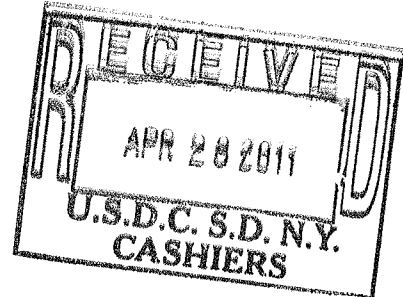
PRESTIGE GLOBAL COMPANY LTD.
and FAMILY DOLLAR STORES, INC.,

Plaintiffs,

v.

L.A. PRINTEX INDUSTRIES, INC.,

Defendant.



**COMPLAINT FOR DECLARATORY JUDGMENT OF NO COPYRIGHT
INFRINGEMENT**

Plaintiffs Prestige Global Company, Inc. (hereinafter "Prestige"), and Family Dollar Stores, Inc. (hereinafter, "Family Dollar"), by and through their undersigned counsel, for their Complaint against the Defendant L.A. Printex Industries, Inc. (hereinafter "L.A. Printex" or "Defendant"), allege as follows:

1. This declaratory judgment action arises under the copyright laws of the United States, 17 U.S.C. § 101, et seq. and pursuant to 28 U.S.C. § 2201 seeks a declaration that Plaintiffs have not infringed upon any claimed copyright rights of L.A. Printex.

JURISDICTION AND VENUE

2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338 with respect to the claims arising under the Copyright Act, 17 U.S.C. § 101, et seq. and pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, et seq.

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) because this is an action brought pursuant to the Copyright Act, defendant conducts business in

this judicial district, and a substantial part of the events giving rise to the claims occurred in this district.

THE PARTIES

4. Plaintiff Prestige is a corporation organized and existing under the laws of the States of New York and is located and doing business at 1350 Broadway, New York, N.Y. 10018.

5. Plaintiff Prestige is the agent who facilitated Plaintiff Family Dollar's purchase of the allegedly infringing products at issue herein.

6. Plaintiff Family Dollar is a corporation organized and existing under the laws of the State of North Carolina and is located and doing business at 10401 Monroe Road, Matthews, NC 28105.

7. Plaintiff operates a chain of more than 6,800 general merchandise retail discount stores in 44 states, including New York.

8. On or about March 1, 2011, Plaintiff Family Dollar was served with a complaint filed in the United States District Court for the Central District of California, which alleged that Family Dollar has sold and/or continues to sell five (5) clothing products that infringe upon L.A. Printex's copyright rights. The complaint identifies five products sold by Family Dollar, which allegedly infringe upon five copyrighted designs belonging to L.A. Printex. The complaint alleges copyright infringement, vicarious copyright infringement, and/or contributory copyright infringement by Family Dollar and other unnamed defendants in violation of Title 17 U.S.C. § 101 et seq. A copy of L.A. Printex's Original Complaint is attached as **Exhibit A**.

9. While the complaint alleged that the Central District of California has jurisdiction over Plaintiff Family Dollar because it “is a corporation organized and existing under the laws of the State of California” and is “doing business in and with the state of California”, Plaintiff Family Dollar is in fact a North Carolina corporation that does not operate any stores in California, and does not sell products in California, including the alleged infringing products at issue herein.

10. On April 25, 2011, L.A. Printex sought to correct its mistake by filing an Amended Complaint. L.A. Printex’s Amended Complaint replaces Plaintiff Family Dollar Stores, Inc., a North Carolina corporation, with a separate entity by the name of Family Dollar Stores of California, Inc. All of the allegations in the Original Complaint were otherwise the same. Attached hereto as **Exhibit B** is a copy of L.A. Printex’s Amended Complaint.

11. However, Family Dollar Stores of California, Inc. is not involved in any commercial activity and has never purchased or sold the allegedly infringing products. Upon information and belief Family Dollar Stores of California, Inc. will make a motion to dismiss L.A. Printex’s Amended Complaint on such basis.

12. Upon information and belief, L.A. Printex is a corporation organized and existing under the laws of the State of California, with an office and place of business at 3270 East 26th Street, Vernon, CA 90023.

13. Upon information and belief, L.A. Printex is doing business in the Southern District of New York, transacts business within the Southern District of New York, derives revenue from intrastate and interstate commerce, and defendant is otherwise

within the jurisdiction of this Court.

COUNT 1
DECLARATION OF INVALIDITY, UNENFORCEABILITY AND/OR NON-
INFRINGEMENT UNDER THE COPYRIGHT ACT

14. Plaintiffs repeat and reallege each allegation contained in paragraphs 1-13 as if set forth in full herein.

15. Plaintiff Family Dollar has sold and may continue to sell in commerce the clothing products alleged by Defendant L.A. Printex to have infringed its copyright rights.

16. Defendant L.A. Printex, through its attorneys, has previously sued Plaintiff Family Dollar in the Central District of California for violation of its copyright rights relating to the clothing products at issue herein.

17. When Defendant L.A. Printex realized that Plaintiff Family Dollar was not subject to jurisdiction in California, it amended its complaint to remove Plaintiff Family Dollar from that case.

18. Upon information and belief, Defendant L.A. Printex intends to pursue its claims against Plaintiff Family Dollar in an appropriate jurisdiction.

19. Upon information and belief, since Plaintiff Prestige is the agent who facilitated Plaintiff Family Dollar's purchase of the clothing precuts at issue, Defendant L.A. Printex will also ultimately pursue its claims against Plaintiff Prestige in an appropriate jurisdiction.

20. Plaintiff Family Dollar and Prestige both believe and allege herein that that the clothing products at issue do not infringe upon any valid copyright rights of L.A. Printex.

21. Plaintiff Family Dollar and Prestige both believe and allege herein that L.A. Printex's purported copyright rights are invalid and/or unenforceable.

22. In view of the foregoing, there has been and now is an actual controversy between Plaintiffs Family Dollar and Prestige on the one hand and Defendant L.A. Printex on the other.


WHEREFORE, Plaintiffs Family Dollar and Prestige pray for a judgment against Defendant L.A. Printex as follows:

A. For judgment declaring that Defendant's copyright rights are invalid, void, unenforceable and/or not infringed;

B. Awarding Plaintiffs their costs, expenses and reasonable attorneys' fees as permitted by law; and

C. Awarding Plaintiffs such other and further relief as the as the Court may deem just and proper.

GOTTLIEB, RACKMAN & REISMAN, P.C.
Attorneys for Plaintiffs
270 Madison Avenue
New York, New York 10016
(212) 684-3900

By 
Richard S. Schurin
Ariel S. Peikes

Dated: April 28, 2011
New York, New York